

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0060P

Use Tax

Calendar Years 1996, 1997, and 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a retail merchant that was audited for calendar years 1996, 1997, and 1998. Upon audit, it was discovered that the taxpayer failed to self-assess use tax on advertising circulars distributed to the general public in its stores, advertising circulars distributed through ADVO, and hangers allocated and used in Indiana.

Taxpayer protests the penalty assessed on an audit completed on October 4, 1999.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit revealed that approximately forty percent (40%) of the assessment was an issue in the prior audit. Taxpayer failed to make corrections and remitted less use tax in the current audit. Taxpayer failed to remit 22%, 38%, and 45% of the tax due in 1996, 1997, and 1998 respectively.

Taxpayer's argument states that it makes a conscientious effort to be compliant and cooperative; that it filed its returns timely; and the errors that resulted in the assessment were not due to negligence.

A review of the current audit indicates a portion of the issues in a prior audit were not corrected and the amount of tax submitted during the current audit period was less than the amounts submitted in the prior audit. In addition, taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.